

## Farm Credit Administration

## § 627.2730

(3) Extend credit to existing borrowers as necessary to honor existing commitments and to effectuate the purposes of the receivership.

(4) Borrow such sums as necessary to effectuate the purposes of the receivership.

(5) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect the institution's assets or property or rehabilitate or improve such property and assets.

(6) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect any asset or property on which the institution has a lien or in which the institution has a financial or property interest, and pay off and discharge any liens, claims, or charges of any nature against such property.

(7) Investigate any matter related to the conduct of the business of the institution, including, but not limited to, any claim of the institution against any individual or entity, and institute appropriate legal or other proceedings to prosecute such claims.

(8) Institute, prosecute, maintain, defend, intervene, and otherwise participate in any legal proceeding by or against the institution or in which the institution or its creditors or members have any interest, and represent in every way the institution, its members, and creditors.

(9) Employ attorneys, accountants, appraisers, and other professionals to give advice and assistance to the receivership generally or on particular matters, and pay their retainers, compensation, and expenses, including litigation costs.

(10) Hire any agents or employees necessary for proper administration of the receivership.

(11) Execute, acknowledge, and deliver, in person or through a general or specific delegation, any instrument necessary for any authorized purpose, and any instrument executed under this paragraph shall be valid and effective as if it had been executed by the institution's officers by authority of its board of directors.

(12) Sell for cash or otherwise any mortgage, deed of trust, chose in action, note contract, judgment or decree, stock, or debt owed to the institu-

tion, or any property (real or personal, tangible or intangible).

(13) Purchase or lease office space, automobiles, furniture, equipment, and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the receivership.

(14) Release any assets or property of any nature, regardless of whether the subject of pending litigation, and repudiate, with cause, any lease or executory contract the receiver considers burdensome.

(15) Settle, release, or obtain release of, for cash or other consideration, claims and demands against or in favor of the institution or receiver.

(16) Pay, out of the assets of the institution, all expenses of the receivership and all costs of carrying out or exercising the rights, powers, privileges, and duties as receiver.

(17) Pay out of the assets of the institution all approved claims of indebtedness in accordance with priorities established in this subpart.

(18) Take all actions and have such rights, powers, and privileges as are necessary and incident to the exercise of any specific power.

(19) Take such actions, and have such additional rights, powers, privileges, immunities, and duties as the Farm Credit Administration Board authorizes by order or by amendment of any order or by regulation.

(c) *Authority to pay claims.* The receiver of a bank is also empowered to pay claims of holders of notes, bonds, debentures, or other obligations issued by the bank under 12 U.S.C. 2153(c) or (d) in accordance with procedures specified by the Insurance Corporation pursuant to § 627.2740(d) of this part.

### § 627.2730 Preservation of equity.

(a) Except as provided for upon final distribution of the assets of the institution, no capital stock, participation certificates, equity reserves, or other allocated equities of an institution in receivership shall be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities.

(b) Notwithstanding paragraph (a) of this section, eligible borrower stock

## § 627.2735

shall be retired in accordance with section 4.9A of the Act.

[57 FR 46482, Oct. 9, 1992, as amended at 63 FR 5724, Feb. 4, 1998]

### § 627.2735 Notice to holders of uninsured accounts and stockholders.

(a) Upon the placing of an institution in liquidation, the receiver shall immediately notify every borrower who has an uninsured account (voluntary or involuntary) as described in § 614.4513 of this chapter that the funds ceased earning interest when the receivership was instituted and will be applied against the outstanding indebtedness of any loans of such borrower unless, within 15 days of such notice, the borrower directs the receiver to otherwise apply such funds in the manner provided for in existing loan documents.

(b) As soon as practicable after the receiver takes possession of the institution, the receiver shall notify, by first class mail, each holder of stock and participation certificates of the following matters:

(1) The number of shares such holder owns;

(2) That the stock and other equities of the institution may not be retired or transferred until the liquidation is completed, whereupon the receiver will distribute a liquidating dividend, if any, to the owners of such equities; and

(3) Such other matters as the receiver or the Farm Credit Administration deems necessary.

### § 627.2740 Creditors' claims.

(a) The receiver shall publish promptly a notice to creditors to present their claims against the institution, with proof thereof, to the receiver by a date specified in the notice, which shall be not less than 90 calendar days after the first publication. The notice shall be republished approximately 30 days and 60 days after the first publication. The receiver shall promptly send, by first class mail, a similar notice to any creditor shown on the institution's books at the creditor's last address appearing thereon. Claims filed after the specified date shall be disallowed, except as the receiver may approve them for full or partial payment from the institution's

## 12 CFR Ch. VI (1-1-05 Edition)

assets remaining undistributed at the time of approval.

(b) The receiver shall allow any claim that is timely received and proved to the receiver's satisfaction. The receiver may disallow in whole or in part any creditor's claim or claim of security, preference, or priority which is not proved to the receiver's satisfaction or is not timely received and shall notify the claimant of the disallowance and reason therefor. Sending the notice of disallowance by first class mail to the claimant's address appearing on the proof of claim shall be sufficient notice. The disallowance shall be final, unless, within 30 days after the notice of disallowance is mailed, the claimant files a written request for payment regardless of the disallowance. The receiver shall reconsider any claim upon the timely request of the claimant and may approve or disapprove such claim in whole or in part.

(c) Creditors' claims that are allowed shall be paid by the receiver from time to time, to the extent funds are available therefor and in accordance with the priorities established in this subpart and in such manner and amounts as the receiver deems appropriate. In the event the institution has a claim against a creditor of the institution, the receiver shall offset the amount of such claim against the claim asserted by such creditor.

(d) The claims of holders of notes, bonds, debentures, or other obligations issued by a bank under 12 U.S.C. 2153 (c) or (d) shall be made, if deemed necessary or appropriate, in accordance with procedures formulated by the Insurance Corporation. In the formulation of such procedures, the Insurance Corporation shall consult with the Farm Credit Administration.

### § 627.2745 Priority of claims—associations.

The following priority of claims shall apply to the distribution of the assets of an association in liquidation:

(a) All costs, expenses, and debts incurred by the receiver in connection with the administration of the receivership.

(b) Administrative expenses of the association, provided that such expenses were incurred within 60 days prior to